

RECORDATION NO. 11879-<sup>F</sup> Filed 1425

JUN 8 1980

STEPTOE & JOHNSON

INTERSTATE COMMERCE COMMISSION 1250 CONNECTICUT AVENUE

WASHINGTON, D. C. 20036

CHERYL A. SKIGIN  
(202) 862-2053

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INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 11879-<sup>F</sup> Filed 1425

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11879-<sup>R</sup> RECORDATION NO. Filed 1425

RECORDATION NO. 11879-<sup>C</sup> Filed 1425

JUN 9 1980

June 9, 1980

INTERSTATE COMMERCE COMMISSION

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INTERSTATE COMMERCE COMMISSION

Ms. Agatha Mergenovich, Secretary  
Interstate Commerce Commission  
Room 2215 - Office of the Secretary  
Washington, DC 20423

No. 0-161A104

Date JUN 9 1980

Fee \$ 270.00

ICC Washington, D. C.

Dear Ms. Mergenovich:

Enclosed for filing and recordation pursuant to the provisions of 49 U.S.C. § 11303 are several copies of the following documents:

1. Lease Agreement dated as of January 16, 1980, between Brae Corporation and The Iowa Terminal Railroad;

2. Lease Agreement dated as of July 13, 1979 between Brae Corporation and Columbia & Cowlitz Railway Company;

3. Lease Agreement dated as of March 8, 1978 between Brae Corporation and Port of Tillamook Bay Railroad;

4. Amendment Agreement No. 1 (to the Lease Agreement dated as of March 8, 1978) between Brae Corporation and Port of Tillamook Bay Railroad dated March 31, 1980

5. Supplement No. 2 (to the Lease Agreement dated as of July 13, 1979) between Brae Corporation and Columbia & Cowlitz Railway Company dated as of June 2, 1980;

6. Assignment of Lease and Agreement dated as of June 9, 1980 between Brae Corporation and The Connecticut Bank and Trust Company of the Lease Agreement dated as of March 8, 1978 between Brae Corporation and Port of Tillamook Bay Railroad;

7. Assignment of Lease and Agreement dated as of June 9, 1980 between Brae Corporation and The Connecticut Bank and Trust Company of the Lease Agreement dated as of January 16, 1980, between Brae Corporation and The Iowa Terminal Railroad;

Countersigned Cheryl A. Skigin

8. Assignment of Lease and Agreement dated as of June 9, 1980 between Brae Corporation and The Connecticut Bank and Trust Company of the Lease Agreement dated as of July 13, 1979 between Brae Corporation and Columbia & Cowlitz Railway Company; and,
9. The Equipment Trust Agreement dated as of May 1, 1980 between Brae Corporation and The Connecticut Bank and Trust Company; and,

Please file and record the documents previously enumerated under the names of the parties set forth below.

The equipment which is subject to these agreements is described in Schedule A attached hereto.

The names and addresses of the parties to the transactions evidenced by the foregoing documents are as follows:

- ✓ 1. Lessor: Brae Corporation  
Three Embarcadero Center  
San Francisco, CA 94111  
  
Lessee: The Iowa Terminal Railroad  
Post Office Box 450  
Mason City, IA
- ✓ 2. Lessor: Brae Corporation  
Three Embarcadero Center  
San Francisco, CA 94111  
  
Lessee: Columbia & Cowlitz Railway  
Company  
Post Office Box 288  
Longview, WA 98632
- ✓ 3. Lessor: Brae Corporation  
Three Embarcadero Center  
San Francisco, CA 94111  
  
Lessee: Port of Tillamook Bay Railroad  
Tillamook, OR 97141
- ✓ 4. Lessor: Brae Corporation  
Three Embarcadero Center  
San Francisco, CA 94111  
  
Lessee: Port of Tillamook Bay Railroad  
Tillamook, OR 97141
- ✓ 5. Lessor: Brae Corporation  
Three Embarcadero Center  
San Francisco, CA 94111  
  
Lessee: Columbia & Cowlitz Railway  
Company  
Post Office Box 188  
Longview, WA 98632

- ✓6. Assignor/Lessor: Brae Corporation  
Three Embarcadero Center  
San Francisco, CA 94111
- Trustee: The Connecticut Bank and  
Trust Company  
One Constitution Plaza  
Hartford, CT
- Assignee: Port of Tillamook Bay Rail-  
road  
Tillamook, OR 97141
- ✓7. Assignor/Lessor: Brae Corporation  
Three Embarcadero Center  
San Francisco, CA 94111
- Trustee: The Connecticut Bank and  
Trust Company  
One Constitution Plaza  
Hartford, CT
- Assignee: The Iowa Terminal Railroad  
Company  
Post Office Box 450  
Mason City, IA
- ✓8. Assignor/Lessor: Brae Corporation  
Three Embarcadero Center  
San Francisco, CA 94111
- Trustee: The Connecticut Bank and  
Trust Company  
One Constitution Plaza  
Hartford, CT
- Assignee: Columbia & Cowlitz Railroad  
Company  
Post Office Box 450  
Mason City, IA
9. Lessee/Guarantor: Brae Corporation  
Three Embarcadero Center  
San Francisco, CA 94111
- Trustee/Lessor: The Connecticut Bank and  
Trust Company  
One Constitution Plaza  
Hartford, CT

Additionally, it is requested that documents numbered one through five be cross-indexed under the name of the Trustee, The Connecticut Bank and Trust Company. Check numbered 12384 from Heller, Ehrman, White & McAuliffe in the amount of \$120.00 and check numbered 44345 from Steptoe & Johnson in the amount of \$150.00 are enclosed to cover the filing fee (\$220.00) and cross-indexing fee (\$50.00).

Ms. Mergenovich

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June 9, 1980

Please return to the person presenting this letter your acknowledgement, fee receipt, the enclosed copies of this letter and any copies of the documents not required for recordation, all stamped to indicate appropriate filing information.

Very truly yours,

  
Cheryl A. Skigin

mbm

Enclosures

[to ICC transmittal letter]

SCHEDULE A

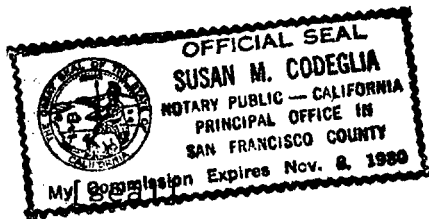
SCHEDULE OF RAILCARS

<u>No. of Units</u>	<u>Description</u>	<u>AAR Designation</u>	<u>Identification Numbers (both inclusive)</u>	<u>Lessee</u>	<u>Date of Lease</u>	<u>Term of Lease</u>
75	50'6" 70-Ton Boxcars	XM	POTB 151 through POTB 225	Port of Tillamook Bay Railroad	March 8, 1978 Amend- ment Agree- ment No. 1 dated as of March 31, 1980	15 years
25	50'6" 70-Ton Boxcars	XM	IAT 1000 through IAT 1024	Iowa Terminal Railroad	January 16, 1980	15 years
50	100-Ton Wood- chip Cars	GTS	CLC 5001 through CLC 5050	Columbia & Cowlitz Railway Company	July 13, 1979	15 years

STATE OF CALIFORNIA       )  
                                      ) ss.  
COUNTY OF SAN FRANCISCO )

I, Susan M. Codeglia a Notary Public in and for the State of California, duly commissioned and sworn, do certify and say that on this 5<sup>th</sup> day of June, 1980, I carefully compared the annexed copy of the attached document with the original thereof, and that the same is a full, true and exact copy of said original.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County of San Francisco, the day and year in this certificate first above written.



Susan M. Codeglia  
Notary Public

My Commission Expires: Nov. 8, 1980

✓

THIS AMENDMENT AGREEMENT NO. 1 ("Agreement") dated as of March 31, 1980, by and between BRAE CORPORATION, a Delaware corporation, which is successor in interest to BRAE Corporation, a California corporation ("BRAE") and PORT OF TILLAMOOK BAY RAILROAD, an Oregon public corporation ("Lessee").

RECORDATION NO. 11879  
Filed 1425

WITNESSETH:

JUN 9 1980 - 11 45 AM  
INTERSTATE COMMERCE COMMISSION

WHEREAS, the parties have entered into a Lease Agreement dated as of March 8, 1978 ("Lease"), pursuant to which certain railroad cars were leased by BRAE to Lessee; and

WHEREAS, the parties now desire to amend the Lease as hereinafter set forth and to include additional railcars under the Lease ("Additional Cars");

NOW THEREFORE, in consideration of the premises set forth hereinbelow, the parties hereby agree as follows:

1. Equipment Schedule No. 2, as attached hereto is hereby incorporated into the Lease.

2. Sections 5D and 6A of the Lease shall be deleted and revised and Sections 5D and 6A as set forth below shall be substituted therefore; such amendment shall be effective commencing upon the first day of the month following the first delivery date of the Additional Cars:

"D. Lessee agrees to pay all taxes, assessments, if applicable, and other governmental charges of whatsoever kind or character relating to each Car (whether assessed upon BRAE or Lessee) and on the lease, delivery or operation thereof which may remain unpaid as of the date of delivery of such Car to Lessee or which may be accrued, levied, assessed or imposed during the lease term, including without limitation Federal, state or local taxes on income imposed on Lessee and sales or use taxes imposed on the mileage charges and/or car hire revenues earned by such Car; provided that Lessee shall not be obligated to pay any such taxes, assessments or governmental charges in excess of the revenues which Lessee has or will receive under this Lease. In the event the taxes, assessments or governmental charges which Lessee is obligated to pay pursuant to this Section 5D exceed the revenues which it has received to the date such payment is due, Brae shall be obligated to pay such taxes, assessments or governmental charges, but shall be entitled to reimbursement for such payments (together with interest at the rate of 10% per annum from the date of such payment to the date of reimbursement) from future revenues which would otherwise be payable to Lessee pursuant to this Lease.

BRAE shall forward to Lessee all sales and use tax payments received by it on behalf of Lessee. BRAE and Lessee will comply with all state and local laws requiring the filing of ad valorem tax returns on the Cars. BRAE may, at its request, review all applicable tax returns prior to filing."

"A. (i) Lessee agrees to pay BRAE annual rent for the use of the Cars pursuant to this Agreement. The amount of rent payable by Lessee to BRAE shall be an amount computed as follows:

(a) (X) In the event that utilization for all Cars on an aggregate basis for the applicable calendar year is equal to or less than 87.5%, an amount equal to all car hire (per diem) payments, other than incentive car hire (incentive per diem) payments, earned by all Cars; or (Y) in the event that utilization for all Cars on an aggregate basis for such calendar year is greater than 87.5%, an amount equal to the Base Rental plus one-half of all car hire (per diem) payments in excess of the Base Rental (with Lessee retaining the other one-half of such excess car hire payments); plus

(b) (X) In the event that the average daily mileage for all Cars during the applicable calendar year is equal to or less than 65 miles per Car per day, all of the mileage payments earned by all Cars; or (Y) in the event that the average daily mileage for all Cars during such calendar year exceeds 65 miles per Car per day, the mileage payments which all Cars would have earned during such calendar year if mileage had averaged only 65 miles per Car per day (with Lessee retaining the mileage payments in excess of such amount); plus

(c) One-half of all incentive car hire (incentive per diem) payments earned by the Cars during such calendar year; plus

(d) All demurrage payments earned by the Cars during such calendar year.

(ii) "Utilization" of the Cars for any period shall mean a fraction, the numerator of which is (X) the aggregate number of Car Hours in such period that car hire payments are earned by Cars, and the denominator of which is (Y) the aggregate number of Car Hours during such period. "Car Hour" shall mean one hour during which one Car is on lease hereunder,



commencing upon the delivery of such Car pursuant to Section 3A hereof. "Base Rental" shall mean for any calendar year an amount equal to all car hire payments (other than incentive car hire payments) earned by the Cars during such calendar year, multiplied by a fraction the numerator of which is 87.5% and the denominator of which is the Utilization for the Cars for such calendar year.

(iii) The rent payable by Lessee to BRAE under this Section 6A shall be derived from the revenues earned by the Cars in the following order: (1) incentive car hire payments, (2) straight car hire payments, (3) mileage charges, (4)

demurrage and (5) other. In no event shall Lessee be required to pay rent to BRAE under this Agreement an amount in excess of the total revenues earned by the Cars, or to pay to BRAE any switching charges or other revenue generated directly by Lessee's railroad (as opposed to the Cars themselves).

(iv) If BRAE pays other railroads to move Cars in accordance with Section 3A (i.e., diversions), except for any payments incurred to deliver Cars to Lessee's railroad line, Lessee shall reimburse BRAE for such payments, but only from monies retained by Lessee pursuant to this Section 6A.

(v) In the event damage beyond repair or destruction of a Car has been reported in accordance with Rule 7 of the AAR Car Service and Car Hire Agreement Code of Car Hire Rules-Freight and the appropriate amount due as a result thereof is received by BRAE, that damaged or destroyed Car will be removed from the coverage of this Agreement as of the date that car hire payments ceased."

3. Except as amended hereby, the Lease remains in full force and effect in accordance with the terms and conditions set forth therein.

IN WITNESS WHEREOF, the parties have each caused their respective duly authorized officers to execute this Agreement as of the date first written above.

BRAE CORPORATION

PORT OF TILLAMOOK BAY RAILROAD

By

By

Title

Title

Date

Date

## EQUIPMENT SCHEDULE No. 2

BRAE CORPORATION hereby leases the following Cars to Port of Tillamook Bay Railroad  
pursuant to that certain Lease Agreement dated as of March 31, 1980

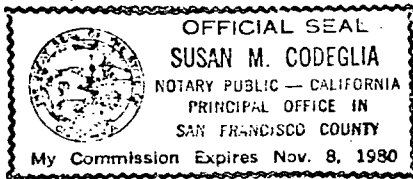
A.A.R. Mech. Design	Description	Numbers	Length	Dimensions		Doors Width	No. of Cars
				Inside Width	Height		
XM	General Purpose Boxcar, 70-Ton	POTB 151 through POTB 225, inclusive	50'	9'6"	11'1"	Dbl 8' offset sliding door	75

BRAE CORPORATION

BY: TITLE: PresidentDATE: 3-28-80BY: Douglas S. RosenbergTITLE: PresidentDATE: 8 April 1980

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF SAN FRANCISCO )

On the 15<sup>th</sup> day of April, 19 80, before me personally appeared Wm. L. Texido, to me known, who, being by me duly sworn, did depose and say that he is the President of BRAE Corporation, the corporation which executed the above instrument; that he signed his name to the above instrument by authority of the Board of Directors of said corporation; and that he acknowledged that the execution of the above instrument was the free act and deed of such corporation.



[seal]

Susan M. Codeglia  
Notary Public

My Commission Expires: Nov 8, 1980

STATE OF )  
 ) ss.  
COUNTY OF )

On this 9<sup>th</sup> day of April, 19 80, before me personally appeared Naughton S. Rosenberg, to me personally known, who, being by me duly sworn, did depose and say that he is the President of Port of Tillamook Bay, Inc., the corporation which executed the above instrument; that he signed his name to the above instrument by authority of the Board of Directors of said corporation; and that he acknowledged that the execution of the above instrument was the free act and deed of such corporation.

[seal]

Joanne S. Brennan  
Notary Public

My Commission Expires: August 6, 1982